

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**BILLY J. REYNOLDS AND JODY MILLER**

**APPELLANTS**

**v.  
MISSOURI BOARD OF PROBATION AND  
PAROLE, ET AL.**

**RESPONDENTS.**

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DOCKET NUMBER WD78109

DATE: July 28, 2015

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Appeal From:

Cole County Circuit Court  
The Honorable Daniel R. Green, Judge

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Appellate Judges:

Division One: Cynthia L. Martin, Presiding Judge, Joseph M. Ellis, Judge and James E. Welsh,  
Judge

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Attorneys:

Billy J. Reynolds and Jody Miller, Appellants Pro Se.

Michael J. Spillane, Jefferson City, MO, for respondents.

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**MISSOURI APPELLATE COURT OPINION SUMMARY**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**BILLY J. REYNOLDS AND JODY MILLER,**

**APPELLANTS,**

**v.**

**MISSOURI BOARD OF PROBATION AND  
PAROLE, ET AL.,**

**RESPONDENTS.**

No. WD78109

Cole County

Before Division One: Cynthia L. Martin, Presiding Judge, Joseph M. Ellis, Judge and James E. Welsh, Judge

Billy J. Reynolds and Jody Miller appeal from a grant of summary judgment in favor of the Missouri Board of Probation and Parole and the Director of the Division of Offender Rehabilitative Services for the Missouri Department of Corrections on the Appellants' petition challenging the Board's extension of conditional release dates due to Appellants' failure to satisfactorily complete the Missouri Sexual Offender Program.

**AFFIRM**

Division One holds:

1. The Department of Corrections has a statutory responsibility pursuant to section 589.040 to rehabilitate imprisoned offenders serving sentences for sexual offenses. The MoSOP was developed to comply with this obligation.
2. An inmate's failure to satisfactorily complete or participate in a rehabilitative program established by the Department of Corrections constitutes the violation of a "rule or regulation" as anticipated by section 558.011.5, affording the Board discretion to extend conditional release dates.
3. Section 589.040.2 was amended in 2011 to provide that conditional release cannot be provided to an inmate who fails to satisfactorily complete MoSOP.
4. If the Board extended the Appellants' conditional release dates based not on the discretion afforded by section 558.011.5, but instead by applying section 589.040.2 as amended, the *ex post facto* clause is not implicated. An amended statute which eliminates eligibility for conditional release does not violate the *ex post facto* clause though applied to inmates who have already been sentenced.

5. Application of section 589.040.2 as amended to extend the Appellants' conditional release dates was not unfairly punitive.

Opinion by Cynthia L. Martin, Judge

July 28, 2015

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